

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JUKEN W. GORDON,

Plaintiff,

V.

N. GONZALEZ, *et al.*,

Defendants.

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CIVIL NO. 1: CV 01-0331

(Judge Rambo)

ORDER

Before the court is Defendants’ motion *in limine* to exclude the testimony of Plaintiff’s expert, Stanley Askin, M.D., Esquire. Defendants’ assert that Plaintiff has failed to comply with Federal Rule of Civil Procedure 26(a)(2)(B), which states that a party must provide an expert report upon the disclosure of an expert. Defendants state that Plaintiff’s expert should be excluded based on Federal Rule 37(c)(1), which provides: “A party that without substantial justification fails to disclose information required by Rule 26(a) . . . is not, unless such failure is harmless, permitted to use as evidence at trial, at a hearing, or on a motion any witness or information not so disclosed.” The court agrees with Defendants.

In addition, Plaintiff has failed to file a responsive brief to Defendants' motion *in limine*. Pursuant to Middle District Local Rule 7.6, a motion shall be deemed unopposed by the failure to file a responsive brief within fifteen days. Because Plaintiff has failed to adhere to the Federal Rules of Civil Procedure, and because Plaintiff has failed to respond to Defendants' motion, the court will grant Defendants' request to exclude the testimony of Plaintiff's expert.

IT IS HEREBY ORDERED that Defendants' motion *in limine* to exclude the testimony of Plaintiff's expert, Stanley Askin, M.D. , Esquire is **GRANTED.**

s/Sylvia H. Rambo
Sylvia H. Rambo
United States District Judge

Dated: October 13, 2004.